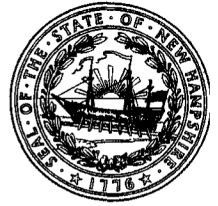




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

June 15, 2005

Motiva Enterprises
Attn: Gail Grosbeck
798 Haddonfield/Berlin Road
Cherry Hill, NJ 08034

Re: Docket No. AF 04-045 Motion to Accept Settlement Agreement

Dear Ms. Grosbeck:

Enclosed for your records is a copy of the Motion to Accept Settlement Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Director of the Waste Management Division, and accepted by Commissioner Michael P. Nolin on June 15, 2005.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY

Michael P. Sclafani,
Legal Assistant

cc: Anthony P. Giunta, PG., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
Lynn Woodard, DES WMD
Thomas Beaulieu, DES WMD
Susan Hanamoto, DES WMD

Motiva Enterprises – Attn: Gail Grosbeck
798 Haddonfield/Berlin Road
Cherry Hill, NJ 08034

Re: Shell Service Station 138282
7 Harris Road, Nashua, NH
UST ID # 0-111436

**ADMINISTRATIVE FINE
No. AF 04-045**

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division ("the Division") and Motiva Enterprises parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services ("DES"), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. Motiva Enterprises ("Motiva") is the registered facility owner of three underground storage tank ("UST") systems at the Shell Service Station facility ("the Facility"), further identified as UST #0-111436, located on real property at 7 Harris Road, Nashua, NH ("the Property").
3. On August 31, 2004, the Division issued Notice of Proposed Administrative Fine AF 04-045 ("the Notice") to Motiva seeking fines totaling \$1,500 for violations of Env. Wm 1401.
4. Specifically, the Notice cited Motiva for violating Env-Wm 1401.11 (a) by failing to maintain accurate stock inventory records for all three UST's in accordance with RSA 146-C:5 and Env-Wm 1401.11. Pursuant to Env-C 607.05(a) the Division sought a fine of \$1,500.
5. In order to settle this matter, the Division and Motiva have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
6. Of the proposed fine of \$1,500, 20% or \$300 shall be suspended due to the Respondent's good faith efforts to comply with the regulatory requirements. An additional 20% or \$300 shall be suspended due to the Respondent's prompt and consistent cooperation in providing information and correcting violations.
7. The suspended portion of the proposed fine, in the amount of \$600, is contingent on Motiva maintaining the subject facility in compliance with New Hampshire Administrative Rules Env-Wm 1401 for a period of two years from the date of the execution of this document. If Motiva fails to maintain compliance during the two-year period, the suspended portion of the proposed fine in the amount of \$600 shall become immediately due and payable. If Motiva maintains compliance for the prescribed two-year period, the suspended portion of the fines shall be waived.

Motion to Accept Settlement No. AP 04-045

Page 2

8. Motiva agrees to pay the remaining \$900 upon execution of this Agreement.

9. Payment under Paragraph #8, and any payment that becomes due pursuant to Paragraph #7, shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attention: Michael Sclafani, Legal Assistant
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095

10. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

11. By executing this Agreement, Motiva waives its right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

12. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Motiva, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

13. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

Motion to Accept Settlement No. AF 04-045
Page 3

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,
Motiva Enterprises

5/19/05
Date

By:
Duly Authorized

Waste Management Division

6/14/05
Date

Anthony Grunta, P.G., Director

This Motion to Accept Settlement agreement is granted this 15th day of June, 2005.

Michael A. Nolin, P.G., Commissioner
for Michael A. Nolin, Commissioner
Department of Environmental Services